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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/052,909	01/15/2002	Jose Cortez	ADELW:58571	9100

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EXAMINER

WALTON, GEORGE L

ART UNIT PAPER NUMBER

3753

DATE MAILED: 09/09/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/052,909

Applicant(s)

Cortez et al

Examiner

George L. Walton

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE THREE MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 6 and 7 6) ☐ Other:

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DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 5-9 and 11-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Badger (4,006,762). Noting particularly to figure 3. Element 10 is readable on the fuel tank. In figure 3, the dual receiver is readable on element 12 and 200. The claimed first and second chambers are readable on the space within element 202 of figure 3 and the second chamber is readable on elements 84 and 86. Elements 68 and 70 are readable on the cut-out section of the sensor (claims 2 and 11). The nipple 202 removably attaches a fuel supply nozzle (claim 3) thereto (see column 5, lines 36-39). Also, the dual valves are readable on elements 204 and 40, 46 as shown in figure 3. Element 20 is readable on the sensor. In claims 5, 7 and 8, the jet pick-up line or fitting is readable on elements 22, 24, 26, 60 and 62. The jet return fitting is readable on elements 28, 30, 32 and 88. Finally, the different sizes of the pick-up and return fittings of claim 8 is readable on figure 8 and elements 290, 294 and 296, 298, 300.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections

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set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 4 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Badger in view of Mylander (4,191,208). The above claims are readable on the patent to Badger with the single exception of having a tank with a vent valve or means to prevent pressure build up therein. The patent to Mylander teaches the above exception. In view of the teaching of Mylander, it would be obvious to one of ordinary skill in the art, at the time the invention was made, to provide the above exception to tank 10 of Badger as taught by element 18 of Mylander, if desired. Such teaching provides no unobvious or unexpected result.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


Any inquiry concerning this communication or earlier communications from the examiner should be

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directed to George L. Walton whose telephone number is (703) 308-2596. Upon receipt of this action, the applicant and/or attorney is invited to contact the examiner to discuss the above action. My normal business hours are between 8:30 AM to 5:00 PM. Should any attempt after one business day to reach the examiner by telephone is unsuccessful, you may contact the supervisor, Mr. John Rivell on (703) 308-2599. My fax number is (703) 308-7765.

Any inquiry of a general nature or relating to the status of this application and any pre-examination proceedings on this application should be directed to the receptionist whose telephone number is (703) 308-0861.

GLW
September 4, 2003


GEORGE L. WALTON
PRIMARY PATENT EXAMINER
TECHNOLOGY CENTER - 3700
ART UNIT - 3753